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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,913	12/18/2001	Robert A. Cordery	F-430	1303
919	7590	05/25/2004	EXAMINER	
PITNEY BOWES INC. 35 WATERVIEW DRIVE P.O. BOX 3000 MSC 26-22 SHELTON, CT 06484-8000			ALEXANDER, LYLE	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/034,913	Applicant(s) CORDERY ET AL.	
	Examiner Lyle A Alexander	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicants' 3/4/04 response and copy of the provisional application (60/340,118) of the cited prior art (Felice et al. 2003/0136179) is appreciated. The copy of the above provisional application was sufficient to demonstrate Felice et al. does not qualify as prior art because the subject matter applied in the rejection was not found in the provisional application. The effective filing date of the subject matter applied in Felice et al. is after the filing date of the instant application.

However, upon updating the search, the following new references were found and applied below.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. (2004/0045342), Megerle (2004/0020264) or Yoon (203/0136203) in view of Reid et al.(USP 4,580,440).

The provisional applications of these publications have been consulted. The taught subject matter is supported by the provisional application dates. The provisional application of Jones et al. does not support agitation of the mail but does support air sampling of the mail.

Jones et al., Megerle and Yoon all teach air sampling of mail to detect biohazardous substances, such as anthrax, that may be concealed therein. The air is sample by vacuum systems. These references are all silent to the agitation of the mail to enhance the release of particles from the mail.

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Reid et al. teach a method of detecting contraband substances in freight cargo containers by agitating the container to disturb the particles therein. Column 2 lines 6-30 it is desirable to agitate a container to cause the particulate therein to become airborne. Air is then sampled and analyzed to determine if any contraband is present. If the containers are not agitated the particulate may remain attached to or trapped within the cargo containers and not be accessible for analysis. Column 8 lines 61+ teach the term "container" means any kind of container in which contraband may be transported and includes "... boxes, letters and other mail".

The claims are directed to "decelerating the tray of mail to compress the mail in the tray....". The Office has read this as any type of agitation, which would accomplish the same. Applicants further claim the "deceleration" is accomplished by "... hit a stop member in the transport path...". The Office has read the act of agitation as rapid acceleration and deceleration, which is indistinguishable from the instant claims.

It would have been within the skill of the art to modify Jones et al. (2004/0045342), Megerle (2004/0020264) or Yoon (2003/0136203) in view of Reid et al. (USP 4,580,440) and agitate the mail containers to cause the particulate therein to become airborne and effect a more accurate sampling of the particulate within the containers.

Response to Arguments

Applicant's arguments with respect to claims 11-24 have been considered but are moot in view of the new ground(s) of rejection.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ornath et al.(USP 5,942,699) teaches it is know to agitate a container to dislodge particulate material that may be pertinent to the sampling of the air within the container. This reference was not cited above because it does not teach agitation of mail.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lyle A Alexander
Primary Examiner
Art Unit 1743
